

# BEST AVAILABLE COPY

<b>Notice of Allowability</b>	Application No.	Applicant(s)	
	09/691,126	SHIOMI ET AL.	
	Examiner	Art Unit	
	Michael N. Opsasnick	2655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to amendment received on July 9, 2004.
2.  The allowed claim(s) is/are 1-5 and 11.
3.  The drawings filed on 19 October 2000 are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some\*    c)  None    of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

*Vijay Chawan*  
8/9/04

**VIJAY CHAWAN**  
**PRIMARY EXAMINER**

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

On page 5 of the amendment received on July 9, 2004,

- a) "Claims 7-10 (canceled)" should read "Claims 6-10 (canceled)"

Examiner notes that the claim language of dependent claim 6 had been folded into independent claim 1, and assumes that the lack of cancellation of claim 6 has been an oversight by the applicant.

### ***Allowable Subject Matter***

2. Claims 1-5,11 is allowable over the prior art of record.

3. The following is an examiner's statement of reasons for allowance:

As per independent claims 1,11, the claim language pertaining to the manipulation of Lyapunov exponents by using chaos analysis to judge a fatigue level at different points in time is not explicitly taught by the prior art of record. With respect to the prior art of record, it is old and notoriously well known to monitor voice/speech for

fatigue and dozing. As an example, Kanevsky et al (6236968) teaches a sleep prevention car system based on the recognition of driver's voice patterns (abstract, fig. 2, col. 2 line 51 – col. 3 line 60), and determining a threshold of alertness of the driver (col. 3 line 60 – col. 4 line 14). Furthermore, it is old and well known to use Lyapunov exponents in the art of speech recognition. As an example, Byrnes (6400310) uses Lyapunov exponents (col. 17 lines 15-20, col. 18 line 20 – col. 21 line 54) for the use in a speech recognition system (col. 3 lines 40-45). However, it is not obvious to one of ordinary skill in the art of speech recognition to manipulate the Lyapunov exponents in the time domain, as claimed in independent claims 1 and 11 above, to judge a fatigue level or dozing state at different point in time.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

**4. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231  
**or faxed to:**  
(703) 872 9314,  
(for informal or draft communications, please label "PROPOSED" or  
"DRAFT")  
Hand-delivered responses should be brought to Crystal Park II, 2121  
Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Art Unit: 2655

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (703)305-4089, who is available Tuesday-Thursday, 9am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Doris To, can be reached at (703)305-4827. The facsimile phone number for this group is (703)872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (703) 305-4750, the 2600 Customer Service telephone number is (703) 306-0377.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mno  
8/9/2004

*Vijay Chawan* 8/9/04  
VIJAY CHAWAN  
PRIMARY EXAMINER